



# NEW JERSEY BROADCASTERS ASSOCIATION

*Representing the Radio and Television Industry in the Garden State*

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Office of the President and CEO  
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27 April 2020

Hon. Ajit Pai  
Chairman  
Federal Communications Commission  
Washington, DC

RE: FCC's Proposed Higher Regulatory Fees  
MD Docket No. 19-105

Dear Mr. Chairman:

I hope this note finds you in good health and good spirits in spite of this unprecedented national emergency.

The NJBA is doing all we can to support our leaders and first informers to keep the public advised of critical health and public safety messages during this crisis. Our members are airing numerous essential public education messages from our leaders and organizations committed to the health and safety of all New Jersey residents. I am particularly proud of the way our great New Jersey broadcasters have unselfishly and fervently responded to our call to action to air these messages. No other industry is so publicly spirited!

Mr. Chairman, the NJBA appreciates the support broadcasters have received from the Commission over the years. That is why I felt compelled to contact you and your colleagues when I read with great interest and grave concern that the FCC is still considering an increase in Regulatory Fees for broadcasters, which is scheduled for discussion at the Commission's May meeting. I write to you today to respectfully request that you suspend any consideration of raising Regulatory Fees for radio and television during this particularly troublesome time and postpone the rulemaking process on this issue until our nation's societal way of life and economy have been fully restored.

Broadcasters have been hard hit by COVID-19, with severe reductions in advertisement revenues. Most broadcasters have sustained declines of 60-70% in ad revenues and some have lost even more over the past two months. Indeed, some have had a vaporization of revenue altogether in the last 30 days. And as you know, even if the economy were restored tomorrow, it would take months to generate and invoice sponsor revenue, let alone receive it.

As one NJBA member articulated: *"Stations... will be unable to serve the listeners the way that we should especially in times of crisis like this. For a company like ours, which had an already razor-thin profit margin before any disruption to our business by COVID-19, to now be asked to give away even one more*

*dollar in annual fees, is just devastating. That's where we are right now. How would higher annual fees help the communities we serve?"*

In light of the significant increase in annual fees last year, this move to raise Regulatory Fees during this time of catastrophic economic upheaval, coupled with the precarious economic forecasts ahead, is simply imprudent and will likely further hobble local broadcasters' efforts to survive in the aftermath of COVID-19. Furthermore, it would be a disheartening statement for the unprecedented public service being tasked to our broadcasting community that remains open, and our robust '*answering the call*' in this tumultuous time.

Equally important to the economic concerns raised above, is the fact that the Report and Order and Notice of Proposed Rulemaking seems to give no consideration to the various points set forth in very cogent NPRM responses submitted in June and Dec 2019, particularly by one of our members, which outlined a series of questions, to which, we have seen no detailed response or explanation of the points and concerns raised.

Some of the points raised in the various comments filed include:

1. The RAY BAUM'S Act required the Commission to "*take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.*" (47 U.S.C. §159(d)). The allocation of regulatory Fees is to be based on the amount of time devoted by FCC staff to regulating those entities and not some simple "contour approach" of population reached.
2. Effective in 2014, the Commission determined that after the digital transition, VHF TV stations had actually become "less desirable" than UHF stations in terms of prestige and larger audiences (especially due to the signal limitations of VHF stations) and thus there was therefore no longer any basis for charging VHF stations a higher Regulatory Fee (*Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, 28 FCC Rec. 12351 (2013)). Yet, the proposed Regulatory Fee structure provides no discount to VHF stations despite this admission. Worse yet is that many UHF stations are paying less than VHF stations.
3. The proposed Regulatory Fee structure adopted a transitional blended-based fee approach using a ½ population and ½ DMA based fee structure. While the DMA concept aligns a station with how it derives its revenues, the population (contour reach) half of the equation is inconsistent with how stations derive revenue. Using a contour (population reach) approach to assign Regulatory Fees is simply incongruent with how a station should be assessed fees in correlation to the revenue it achieves from its Nielsen DMA.

In addition, the NJBA, through NASBA, filed extensive comments in June advocating for significant reductions in the FCC's proposed regulatory fees for radio and television stations in 2019. As the NASBA Filing pointed out: "The FCC's proposed regulatory fees were in part based on defective data, and that the process used to allocate fees among the various industries regulated by the FCC unfairly shifted FCC "overhead" costs to radio and TV stations in the form of higher regulatory fees."

Given these issues, and many more, we respectfully ask the FCC to consider joining the voice of broadcaster's seeking relief from Regulatory and Spectrum Fee assessments in the years ahead. Surely there are other, more equitable ways to raise revenue without overwhelming broadcasters.

Our cherished stewardship of the public airways is a public trust, and as aforementioned, no industry is more publicly spirited. Furthermore, we have a very different mission from other entities governed by the FCC. Mainly, we operate in the public interest; from EAS messaging for local emergency notifications,

such as lifesaving Amber Alerts, to responding to statewide emergencies like Super-storm Sandy, ice and snow storms, and other extreme weather hazards, to local news of community events and happenings in entertainment from our great and diverse variety of formats. In this national health emergency, increased fees are not what the doctor is calling for and would be in fact a prescription for disaster. Couple that with the failure to address the points enumerated above makes this fee imposition even more perplexing.

Broadcasters support their communities in numerous ways that other industries cannot and often will not consider. Look at the local charities, ball clubs, community food drives, clothing drives, blood drives promoted and sponsored by local broadcasters. Look how local broadcast helps small businesses attract customers and clients, boosting their sales, and creating jobs, as well as contributing to the overall fabric of their communities. If these snowballing fees force stations to go dark, there's no other local entity that could ever replace them.

As one of my colleagues put it: *"Our member stations – especially in rural areas – are the only remaining local connection to our communities for breaking news, emergencies like COVID-19, etc...Our member stations are the only ones doing local journalism in our communities to hold the powerful accountable and look out for the little guy. Our member stations offer a free product to the public for entertainment, escape, and information."*

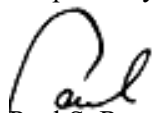
Broadcast radio is bold, diverse, endearing, expandable, compact, ubiquitous, portable, lovable, affordable, and incontrovertible as the most important source of news, information and diverse entertainment available to everyone, and all for free. It informs and binds us, it makes us laugh, it heals our wounds, it provides comfort and lifesaving information in times of crises, and oh yeah—it is always on! It is, in a word: Indispensable. The same can be said for local TV.

For the foregoing reasons, there has been no reasonable explanation of the proposed Regulatory Fee increase that is cost-justified in the economic setting we were in during a pre-COVID-19 environment, let alone and especially in a post-COVID-19 economic underpinning. To be sure, Mr. Chairman and Commissioners, this is not the time to raise fees.

Finally, I feel that our great New Jersey Broadcaster Association represents much more than the radio and television industry in the Garden State. We also represent the vast and diverse audiences that our members so ably serve. We represent the people, and we stand with them. We respectfully ask our regulators and legislators to the same. Please do not raise fees this year. Now, more than ever, it's the right thing to do.

We look forward to continuing to work with you and your staff in the future as important issues arise that affect our industry and that are important to our communities. Thank you for your thoughtful consideration.

Respectfully yours,



Paul S. Rotella, Esq.,  
President & CEO

CC: FCC Commissioners  
NJBA Chairman Chuck Benfer  
NJBA Board of Directors